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ABC-CIA
A(NEWHOUSE 006)
BY MICHAEL F. CONLAN
NEWHOUSE NEWS SERVICE

WASHINGTON - LEGISLATION DESIGNED TO PUNISH ANYONE WHO NAMES A COVERT U.S. INTELLIGENCE AGENT IS EXPECTED TO WIN CONGRESSIONAL APPROVAL THIS YEAR, SETTING THE STAGE FOR WHAT BOTH BACKERS AND CRITICS BELIEVE IS AN INEVITABLE CONSTITUTIONAL CONFRONTATION.

HOUSE AND SENATE SUBCOMMITTEES ARE SCHEDULED TO VOTE ON THEIR SEPARATE VERSIONS WITHIN A WEEK.

CIA DIRECTOR WILLIAM CASEY HAS CALLED THE IDENTITY PROTECTION MEASURE ''OUR TOP PRIORITY.'' HOUSE AND SENATE LEADERS HAVE PROMISED PROMPT ACTION AND FULL BACKING FOR THE ''NAMING NAMES'' BILL, WHICH SEEMED READY FOR PASSAGE LAST YEAR WHEN CONGRESS RAN OUT OF TIME AND ADJOURNED.

OPPONENTS, INCLUDING SEVERAL NEWS MEDIA ASSOCIATIONS, SAY THAT AS THE HOUSE AND SENATE VERSIONS NOW STAND, JOURNALISTS COULD BE PROSECUTED FOR PUBLISHING INFORMATION ALREADY MADE PUBLIC OR AVAILABLE FROM PUBLIC RECORDS.

RICHARD K. WILLARD, A JUSTICE DEPARTMENT COUNSEL FOR INTELLIGENCE POLICY, HAS ACKNOWLEDGED AS MUCH IN TESTIMONY BEFORE THE HOUSE INTELLIGENCE COMMITTEE.

''IT HAS BEEN ARGUED THAT THE PRINCIPLES OF THE FIRST AMENDMENT ARE DONE VIOLENCE WHEN THE GOVERNMENT SEEKS TO PUNISH ACTIONS THAT ARE FACILITATED BY INFORMATION THAT IS AVAILABLE TO THE PUBLIC,'' SAID WILLARD.

''WE DO NOT BELIEVE THIS ARGUMENT HAS ANY MERIT. THE FIRST AMENDMENT IS NOT THE ONLY PROVISION IN THE CONSTITUTION.''

THE AMERICAN NEWSPAPER PUBLISHERS ASSOCIATION, THE SOCIETY OF PROFESSIONAL JOURNALISTS AND THE AMERICAN CIVIL LIBERTIES UNION ARE AMONG THE GROUPS PROTESTING THAT PART OF THE LEGISLATION.

FLOYD ABRAMS, A NEW YORK LAWYER WHO HAS DEFENDED NEWSPAPERS IN SEVERAL FIRST AMENDMENT CASES, PROPOUNDS THE VIEW THAT IF ANY LEGISLATION PERMITS ''THE PROSECUTION OF A JOURNALIST ... OR A NEWSPAPER FOR REPUBLISHING MATERIAL ALREADY PUBLISHED WHICH IS NOT

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